

804 KAR 4:110. Dormant license renewal.

RELATES TO: KRS 243.020, 243.030, 243.040, 243.090, 243.430

STATUTORY AUTHORITY: KRS 241.060

NECESSITY, FUNCTION, AND CONFORMITY: Since Kentucky operates under a quota system for the number of distilled spirits licenses available, and since many quotas are filled and no new licenses are available, it would be unfair to those desiring a license to be precluded from obtaining a license because some licenses were issued but not being used by the licensee. Therefore, it is necessary that a licensee actually conduct the business authorized by the license or else the license will become dormant. Realizing that a licensee, like any other business, may have his business interrupted by situations not under his control, various exceptions to the dormancy rule have been included in the administrative regulation.

Section 1. (1) Any wholesale, distributor, or retail license under which no business is transacted during a period of ninety (90) days shall be revoked by the Alcoholic Beverage Control Board or surrendered.

(2) The provisions of subsection (1) of this section shall not apply to any licensee who is unable to continue in business at the licensed premises due to an act of God, casualty, the acquisition of the premises by any federal, state, city or other governmental agency under power of eminent domain, acquisition by any private corporation through its power of eminent domain granted to it, whether such acquisition is voluntary or involuntary, loss of lease through failure of landlord to renew existing lease, court action or other verifiable business reason. The licensee shall apply to place the license in dormancy by furnishing to the Department of Alcoholic Beverage Control a verified statement setting forth the fact that the licensee is unable to continue in business at his licensed premises, for any of the reasons set forth herein prior to the discontinuance of business. The license shall continue to remain in effect during the license period or until it is transferred to another premises or person. No license shall be considered valid unless business is conducted thereunder within twelve (12) months from date of first notice to the board. The board may extend this dormancy period for up to an additional twelve (12) months for good cause shown.

(3) Licenses placed in dormancy shall be renewed and renewal fees paid in the same manner as active licenses.

(4)(a) If negotiations for a buy-out of a license privilege issued under KRS 243.030 or 243.040(3) may extend thirty (30) days beyond the date of expiration of the seller's license or licenses, then the distilled spirits administrator or the malt beverage administrator shall be notified in writing of the transaction or negotiations not less than ten (10) days prior to the expiration date of the license or licenses involved. The appropriate administrator may then extend the time for filing a renewal or application for the license or licenses for a reasonable length of time not to exceed sixty (60) days.

(b) If a buy-out of an existing license privilege under KRS 243.030 or 243.040(3) extends over the renewal period and the license or licenses have not been renewed by the seller, the purchaser shall pay the annual license fee for the whole fiscal year or from the expiration date of the license privilege sought to be purchased, whichever is greater.

(c) If a license privilege under KRS 243.030 or 243.040(3) qualifies under Section 2 of this administrative regulation, the purchaser of the privilege may place the license in dormancy in the manner provided by this administrative regulation.

Section 2. All licenses carried in a dormant status in the records of the Department of Alcoholic Beverage Control on the date this administrative regulation becomes effective shall be subject to the provisions of this administrative regulation. The time periods contained in this administrative regulation shall be calculated from the effective date of this administrative regulation for these licensees.

The records of the board granting a license dormant status shall be prima facie evidence that the license is valid. (ABC 3:110; 1 Ky.R. 356; eff. 2-5-1975; Am. 17 Ky.R. 1569; eff. 11-29-1990; TAm eff. 7-15-2014.)